

**PETERC. HARVEY**  
**ATTORNEY GENERAL OF NEW JERSEY**  
 Division of Law  
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 P.O.Box 45029  
 Newark, New Jersey 07101

**FILED**

February 15, 2005

**NEW JERSEY STATE BOARD  
 OF MEDICAL EXAMINERS**

By: **Joyce Brown**  
**Deputy Attorney General**  
 (973)648-4735

**STATE OF NEW JERSEY**  
**DEPARTMENT OF LAW & PUBLIC SAFETY**  
**DIVISION OF CONSUMER AFFAIRS**  
**STATE BOARD OF MEDICAL EXAMINERS**

**IN THE MATTER OF THE SUSPENSION OR** :  
**REVOCATION OF THE LICENSE ISSUED TO:** :  
 :

**Administrative Action**

**DULAL BHATTACHARJEE, M.D.**  
 License No. MA 58006

**CONSENT ORDER**

**TO PRACTICE MEDICINE AND SURGERY** :  
**IN THE STATE OF NEW JERSEY**

This matter was opened to the New Jersey State Board of Medical Examiners ("Board") upon receipt of a Judgment in a Criminal Case, entered on May 2, 2002 by the United States District Court Middle District of Pennsylvania, Criminal Division, in which Dulal Bhattacharjee, M.D. ("Respondent") was found guilty as to Count 1 of the Information for Distribution and Possession with Intent to Distribute Vicodin (1600 doses) in violation of Title 21, United States Code, Section 841(a)(1). As a result of the foregoing respondent was sentenced to three (3) years probation, a \$100.00 special assessment and a \$10,000.00 fine. Additionally, on or about September 2002, respondent was excluded from participation in Medicare, Medicaid, and all other federal Health care programs for a period of five (5) years pursuant to Section 1128(a)(4) of the Social Security Act.

**CERTIFIED TRUE COPY**

**On or about July 15, 2003, this Board issued and served upon respondent a Provisional Order of Discipline (“POD”) proposing to suspend respondent’s New Jersey medical license for a three (3) year period, one of which would have been active suspension based upon respondent’s criminal conviction referenced above.**

**On or about November 15, 2004, this Board and respondent entered into an Interim Consent Order wherein respondent voluntarily agreed to cease and desist the practice of medicine and surgery in the State of New Jersey until resolution of all pending matters filed by the Pennsylvania State Board of Medicine (“PA Board”). Thereafter, the Board received information from respondent that on November 17, 2004, he and the PA Board entered into an Agreement of Settlement and Withdrawal of Appeal (“Agreement”) resolving the allegations and charges against respondent which arose out of the transactions and events giving rise to respondent’s December 26, 2001 guilty plea referenced above. By entry of the Agreement, respondent agreed to the imposition of sanctions including the revocation of his license to practice medicine in the Commonwealth of Pennsylvania, however, the revocation is stayed in favor of a nineteen (19) month period of active suspension. Respondent receives credit for three (3) months of the active suspension for time respondent previously served out of practice in Pennsylvania. When the period of active suspension has been completed, respondent shall be eligible for return of his license to practice medicine based on a showing of fitness to practice via his completion of a competency assessment by either the Institute for Physician Evaluation or the Center for Personalized Education for Physicians. The Agreement requires respondent to comply with continuing education requirements established by the PA Board and upon return to practice, for a minimum of five years, respondent shall be subject to probation under terms in which he shall be ineligible to prescribe, order, administer, dispense or use in his**

practice drugs that are classified as controlled substances under the federal ut Commonwealth Controlled Substance, Drug, Device and Cosmetic Act. Respondent shall be eligible to petition the PA Board for removal of the probationary terns after five (5) years.

The' above criminal conviction in Pennsylvania provides grounds to take disciplinary action against respondent's license to practice medicine and surgery in New Jersey pursuant to ~~N.J.S.A. 45:1-21~~ (f) in that respondent has been convicted of a crime which relates adversely to the practice of medicine. The above disciplinary action taken by the sister state of Pennsylvania provides grounds to take disciplinary action against respondent's license to practice medicine and surgery in New Jersey pursuant to N.J.S.A. 45: 1-21 (g) in that respondent's license to practice medicine has been revoked, said revocation is stayed, and is to be served as an nineteen month period of active suspension, three (3) months of which are to be credited for ~~time~~ previously served out of practice in the Commonwealth of Pennsylvania, It appearing that respondent wishes to resolve this matter without formal proceedings and for good cause shown.

ACCORDINGLY, IT IS ON THIS 15<sup>th</sup> DAY OF Feb , 2005, ORDERED AND AGREED THAT:

1. Respondent's license to practice medicine and surgery in the State of New Jersey is hereby placed on active suspension for a period of nineteen(19) months which shall be retroactive to November 15, 2004. Respondent shall not engage in the practice of medicine and surgery in the State of New Jersey until such time as he has met all of the requirements set forth in the Agreement of Settlement and Withdrawal of Appeal, attached hereto and made a part hereof.

2. Respondent has represented to this Board that prior to the suspension of his medical license in the Commonwealth of Pennsylvania, he was practicing medicine solely in that state.

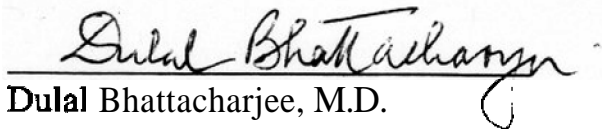
Should respondent seek to commence the practice medicine in New Jersey, he shall be required to appear before the Board or a committee thereof, to demonstrate fitness to resume practice and to show that he has satisfied all the terms and conditions for reinstatement of his medical license in Pennsylvania.

NEW JERSEY STATE  
BOARD OF MEDICAL EXAMINERS

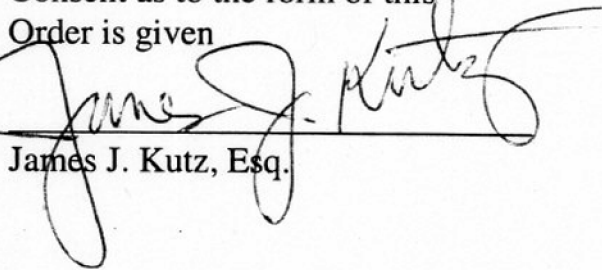
By: 

Bernard Robins, M.D., F.A.C.P.  
Board President

I have read and I understand  
the terms of the within Order  
and agree to be bound by the  
terms of this Order. I hereby  
give my consent to the entry  
of this Order

  
Dulal Bhattacharjee, M.D.

Consent as to the form of this  
Order is given

  
James J. Kutz, Esq.

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
STATE BOARD OF MEDICINE

PRODUCTION STAMP

2004 NOV 17 AM 9:49

Department of State

Commonwealth of Pennsylvania,  
Bureau of Professional and  
Occupational Affairs

v.

Docket No. 0633-49-02

File No. 01-49-02381

and

Docket No. 1337-49-04

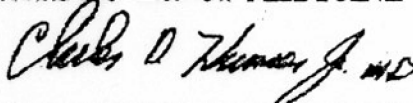
File No. 03-49-09736

Dulal Bhattacharjee, M.D.  
Respondent

**Final Order**

AND NOW, this 17<sup>th</sup> day of November, 2004, the terms and conditions of the agreement of settlement attached as Attachment A are adopted as the final resolution of the allegations and charges against Respondent in the above docketed matters.

BY ORDER:  
STATE BOARD OF MEDICINE



Charles D. Hummer, Jr., M.D., Chairman

Respondent's Attorney: James J. Kutz, Esquire  
Barbara A. Zemlock, Esquire  
POST & SCHELL  
240 Grandview Avenue  
Camp Hill, PA 17011

Prosecuting Attorney: ✓ Mark D. Greenwald, Esquire  
P.O. Box 2649  
Harrisburg, PA 17105-2649

Board Counsel: Gerald S. Smith, Esquire

Date of Mailing: November 17, 2004

## IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Dulal Bhattacharjee, M.D.,  
Petitioner

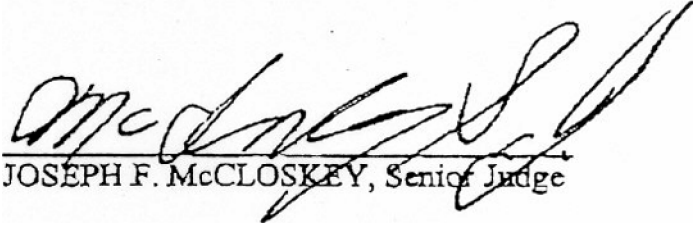
v.

No. 635 C.D. 2004

Department of State,  
State Board of Medicine,  
Respondent

**ORDER**

AND NOW, this 17 day of November, 2004, after mediation in the above matter, the parties having reached an agreement to settle and withdraw their appeal before this Court, said agreement is hereby approved and the petition for review filed on behalf of Dr. Dulal Bhattacharjee is hereby dismissed with prejudice.

  
JOSEPH F. McCLOSKEY, Senior Judge

Certified from the Record

NOV 15 2004

and Order Exit

Attachment A

## IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Dulal Bhattacharjee, M.D.  
Petitioner

v.

No. 635 C.D. 2004

Commonwealth of Pennsylvania,  
Department of State,  
State Board of Medicine,  
Respondent

**Agreement of Settlement and Withdraw of Appeal**

This agreement between the State Board of Medicine and Dulal Bhattacharjee, MD, resolves the allegations and charges against Dr. Bhattacharjee arising out of the transactions and events that gave rise to Dr. Bhattacharjee's December 26, 2001, guilty plea in the United States District Court for the Middle District of Pennsylvania, in the matter of United States of America vs. Dulal Bhattacharjee, Criminal-case number 3:01CR-389. This settlement is intended to be a global resolution of the issues on appeal before the Commonwealth Court of Pennsylvania at docket number 635 C.D. 2004, as well as the allegations before the State Board of Medicine at file number 03-49-09736.

The parties acknowledge that there are significant and complex factual and legal issues that are likely to result in years of protracted litigation pertaining to charges relating to Dr. Bhattacharjee's practice and prescribing of controlled substances. The parties also acknowledge it is indisputable that Dr. Bhattacharjee is subject to discipline by the Board as a consequence of his December 26, 2001, guilty plea in the United States District Court for the Middle District of Pennsylvania, in the matter of United States of America vs. Dulal Bhattacharjee, Criminal case number 3:01CR-389.

Pursuant to Executive Order 2002-7, pertaining to use of alternative resolution practices and the Commonwealth Court's Order directing mediation in this case, the parties agree to resolve all issues and controversies between the parties that arise from the facts and circumstances leading to Dr. Bhattacharjee's guilty plea and contained in the matter now before the Commonwealth Court at docket number 635 C.D. 2004, and the allegations and charges before the State Board of Medicine at Department of State file number 03-49-09736.

Specifically the parties agree as follows:

(1) Dr. Bhattacharjee is subject to disciplinary action by the State Board of Medicine under section 41(3) of the Medical Practice Act of 1985, 63 P.S. § 422.41(3), as a result of his December 26, 2001, guilty plea in the United States District Court for the Middle District of

Pennsylvania, in the matter of United States of America vs. Dulal Bhattacharjee, Criminal case number 3:01 CR-389, to a federal felony related to the practice of medicine.

(2) Dr. Bhattacharjee agrees and the Board imposes by the attached Order adopting this settlement agreement to impose the following sanction upon Dr. Bhattacharjee:

(3) Dr. Bhattacharjee's license to practice medicine in the Commonwealth of Pennsylvania at license number MD-054622-L is **REVOKED**, the revocation is stayed in favor of nineteen month's of Active Suspension, three month's of which shall be credited for time Dr. Bhattacharjee previously served out of practice;

(4) At the completion of the period of active suspension, Dr. Bhattacharjee shall be eligible to return of his license to practice medicine to permanent probationary status, upon a showing of fitness to practice through the completion of a competency assessment and remediation program by either The Institute for Physician Evaluation or The Center for Personalized Education for Physicians;

(5) In order to be eligible for reinstatement to practice, Dr. Bhattacharjee shall comply with the continuing education requirements established by the Board's regulations on continuing medical education;

(6) Upon return to practice Dr. Bhattacharjee shall be subject to probation under the terms that he shall be ineligible for a minimum of five years to prescribe, order, administer, dispense, or use in his practice drugs that are classified as controlled substances under the federal or Commonwealth Controlled Substance, Drug, Device and Cosmetic Act, after five years Dr. Bhattacharjee shall be eligible to petition the Board for removal of the probationary terms;

(7) This action on Dr. Bhattacharjee's license shall be public and reportable to the appropriate national practitioner data banks. The reported basis of the action shall be a violation of the Medical Practice Act as a consequence of Dr. Bhattacharjee's federal guilty plea;

(8) Dr. Bhattacharjee shall have seventy-five days from the date of this agreement to wind down his practice and return his license;

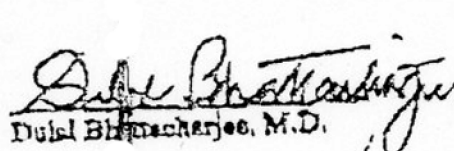
(9) Dr. Bhattacharjee hereby withdraws with prejudice his Petition for Review in the Commonwealth Court of Pennsylvania at docket number 635 C.D. 2004;

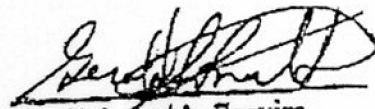
(10) All other charges pending against Dr. Bhattacharjee in the matter before the State Board of Medicine arising from Dr. Bhattacharjee's conduct surrounding the events that led to his federal guilty plea and that are fairly contemplated by the allegations contained at file number 03-49-09736 are dismissed with prejudice;

(11) Each party shall be responsible for their own attorneys' fees and costs associated with these matters. Neither the Commonwealth nor Dr. Bhattacharjee are entitled to any contribution for costs or fees from the other party.



(15) This agreement represents the resolution of all claims between the parties. No other communication oral or written shall be considered in the interpretation of this agreement.

  
Dulal Bhattacharya, M.D.  
Date 11/10/04

  
Gerald S. Smith, Esquire  
Senior Counsel in Charge  
Department of State  
State Board of Medicine

11/12/04  
Date

  
James J. Kutz, Esquire  
Fox & Stahl, PC  
Attorney for Dulal Bhattacharya  
Date 11/10/04

**DIRECTIVES APPLICABLE TO ANY MEDICAL BOARD LICENSEE  
WHO IS DISCIPLINED OR WHOSE SURRENDER OF LICENSURE  
HAS BEEN ACCEPTED**

**APPROVED BY THE BOARD ON MAY 10,2000**

All licensees who are the subject of a disciplinary order of the Board are required to provide the information required on the Addendum to these Directives. The information provided will be maintained separately and will not be part of the public document filed with the Board. Failure to provide the information required may result in further disciplinary action for failing to cooperate with the Board, as required by N.J.A.C. 13:45C-1 et seq. Paragraphs 1 through 4 below shall apply when a license is suspended or revoked or permanently surrendered, with or without prejudice. Paragraph 5 applies to licensees who are the subject of an order which, while permitting continued practice, contains a probation or monitoring requirement.

**1. Document Return and Agency Notification**

The licensee shall promptly forward to the Board office at Post Office Box 183, 140 East Front Street, 2nd floor, Trenton, New Jersey 08625-0183, the original license, current biennial registration and, if applicable, the original CDS registration. In addition, if the licensee holds a Drug Enforcement Agency (DEA) registration, he or she shall promptly advise the DEA of the licensure action. (With respect to suspensions of a finite term, at the conclusion of the term, the licensee may contact the Board office for the return of the documents previously surrendered to the Board. In addition, at the conclusion of the term, the licensee should contact the DEA to advise of the resumption of practice and to ascertain the impact of that change upon his/her DEA registration.)

**2. Practice Cessation**

The licensee shall cease and desist from engaging in the practice of medicine in this State. This prohibition not only bars a licensee from rendering professional services, but also from providing an opinion as to professional practice or its application, or representing him/herself as being eligible to practice. (Although the licensee need not affirmatively advise patients or others of the revocation, suspension or surrender, the licensee must truthfully disclose his/her licensure status in response to Inquiry.) The disciplined licensee is also prohibited from occupying, sharing or using office space in which another licensee provides health care services. The disciplined licensee may contract for, accept payment from another licensee for or rent at fair market value office premises and/or equipment. In no case may the disciplined licensee authorize, allow or condone the use of his/her provider number by any health care practice or any other licensee or health care provider. (In situations where the licensee has been suspended for less than one year, the licensee may accept payment from another professional who is using his/her office during the period that the licensee is suspended, for the payment of salaries for office staff employed at the time of the Board action.)

A licensee whose license has been revoked, suspended for one (1) year or more or permanently surrendered must remove signs and take affirmative action to stop advertisements by which his/her eligibility to practice is represented. The licensee must also take steps to remove his/her name from professional listings, telephone directories, professional stationery, or billings. If the licensee's name is utilized in a group practice title, it shall be deleted. Prescription pads bearing the licensee's name shall be destroyed. A destruction report form obtained from the Office of Drug Control (973-504-6558) must be filed. If no other licensee is providing services at the location, all medications must be removed and returned to the manufacturer, if possible, destroyed or safeguarded. (In situations where a license has been suspended for less than one year, prescription pads and medications need not be destroyed but must be secured in a locked place for safekeeping.)

### **3. Practice income Prohibitions/Divestiture of Equity Interest in Professional Service Corporations and Limited Liability Companies**

A licensee shall not charge, receive or share in any fee for professional services rendered by him/herself or others while barred from engaging in the professional practice. The licensee may be compensated for the reasonable value of services lawfully rendered and disbursements incurred on a patient's behalf prior to the effective date of the Board action.

A licensee who is a shareholder in a professional service corporation organized to engage in the professional practice, whose license is revoked, surrendered or suspended for a term of one (1) year or more shall be deemed to be disqualified from the practice within the meaning of the Professional Service Corporation Act, (N.J.S.A. 14A:17-11). A disqualified licensee shall divest him/herself of all financial interest in the professional service corporation pursuant to N.J.S.A. 14A:17-13(c). A licensee who is a member of a limited liability company organized pursuant to N.J.S.A. 42:1-44, shall divest him/herself of all financial interest. Such divestiture shall occur within 90 days following the entry of the Order rendering the licensee disqualified to participate in the applicable form of ownership. Upon divestiture, a licensee shall forward to the Board a copy of documentation forwarded to the Secretary of State, Commercial Reporting Division, demonstrating that the interest has been terminated. If the licensee is the sole shareholder in a professional service corporation, the corporation must be dissolved within 90 days of the licensee's disqualification.

### **4. Medical Records**

It, as a result of the Board's action, a practice is closed or transferred to another location, the licensee shall ensure that during the three (3) month period following the effective date of the disciplinary order, a message will be delivered to patients calling the former office premises, advising where records may be obtained. The message should inform patients of the names and telephone numbers of the licensee (or his/her attorney) assuming custody of the records. The same information shall also be disseminated by means of a notice to be published at least once per month for three (3) months in a newspaper of

general circulation in the geographic vicinity in which the practice was conducted. At the end of the three month period, the licensee shall file with the Board the name and telephone number of the contact person who will have access to medical records of former patients. Any change in that individual or his/her telephone number shall be promptly reported to the Board. When a patient or his/her representative requests a copy of his/her medical record or asks that record be forwarded to another health care provider, the licensee shall promptly provide the record without charge to the patient.

## **5. Probation/Monitoring Conditions**

With respect to any licensee who is the subject of any Order imposing a probation or monitoring requirement or a stay of an active suspension, in whole or in part, which is conditioned upon compliance with a probation or monitoring requirement, the licensee shall fully cooperate with the Board and its designated representatives, including the Enforcement Bureau of the Division of Consumer Affairs, in ongoing monitoring of the licensee's status and practice. Such monitoring shall be at the expense of the disciplined practitioner.

(a) Monitoring of practice conditions may include, but is not limited to, inspection of the professional premises and equipment, and inspection and copying of patient records (confidentiality of patient identity shall be protected by the Board) to verify compliance with the Board Order and accepted standards of practice.

(b) Monitoring of status conditions for an impaired practitioner may include, but is not limited to, practitioner cooperation in providing releases permitting unrestricted access to records and other information to the extent permitted by law from any treatment facility, other treating practitioner, support group or other individual/facility involved in the education, treatment, monitoring or oversight of the practitioner, or maintained by a rehabilitation program for impaired practitioners. If bodily substance monitoring has been ordered, the practitioner shall fully cooperate by responding to a demand for breath, blood, urine or other sample in a timely manner and providing the designated sample.

### ADDENDUM

Any licensee who ~~is~~ the subject of an Order of the Board suspending, revoking or otherwise conditioning the license, shall provide the following information ~~a~~ the time that the order is signed, if it is entered by consent, or immediately after service of a fully executed order entered after a hearing. The information required here ~~is~~ necessary for the Board to fulfill its reporting obligations:

Social Security Number': \_\_\_\_\_

List the Name and Address of any and all Health Care Facilities with which you are affiliated:

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List the Names and Address of any and all Health Maintenance Organizations with which you are affiliated:

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Provide the names and addresses of every person with whom you are associated in your professional practice: (You may attach a blank sheet of stationery bearing this information).

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<sup>1</sup> Pursuant to 45 CFR Subtitle A Section 61.7 and 45 CFR Subtitle A Section 60.8, the Board is required to obtain your Social Security Number and/or federal taxpayer identification number in order to discharge its responsibility to report adverse actions to the National Practitioner Data Bank and the HIP Data Bank.

**NOTICE OF REPORTING PRACTICES OF BOARD**  
**REGARDING DISCIPLINARY ACTIONS**

Pursuant to N.J.S.A. 52:14B-3(3), all orders of the New Jersey State Board of Medical Examiners are available for public inspection. Should any inquiry be made concerning the status of a licensee, the inquirer will be informed of the existence of the order and a copy will be provided if requested. All evidentiary hearings, proceedings on motions or other applications which are conducted as public hearings and the record, including the transcript and documents marked in evidence, are available for public inspection, upon request.

Pursuant to 45 CFR Subtitle A 60.8, the Board is obligated to report to the National Practitioners Data Bank any action relating to a physician which is based on reasons relating to professional competence or professional conduct:

- (1) Which revokes or suspends (or otherwise restricts) a license,
- (2) Which censures, reprimands or places on probation,
- (3) Under which a license is surrendered.

Pursuant to 45 CFR Section 61.7, the Board is obligated to report to the Healthcare Integrity and Protection (HIP) Data Bank, any formal or official actions, such as revocation or suspension of a license (and the length of any such suspension), reprimand, censure or probation or any other loss of license or the right to apply for, or renew, a license of the provider, supplier, or practitioner, whether by operation of law, voluntary surrender, non-renewability, or otherwise, or any other negative action or finding by such Federal or State agency that is publicly available information.

Pursuant to N.J.S.A. 45:9-19.13, if the Board refuses to issue, suspends, revokes or otherwise places conditions on a license or permit, it is obligated to notify each licensed health care facility and health maintenance organization with which a licensee is affiliated and every other board licensee in this state with whom he or she is directly associated in private medical practice.

In accordance with an agreement with the Federation of State Medical Boards of the United States, a list of all disciplinary orders are provided to that organization on a monthly basis.

Within the month following entry of an order, a summary of the order will appear on the public agenda for the next monthly Board meeting and is forwarded to those members of the public requesting a copy. In addition, the same summary will appear in the minutes of that Board meeting, which are also made available to those requesting a copy.

Within the month following entry of an order, a summary of the order will appear in a Monthly Disciplinary Action Listing which is made available to those members of the public requesting a copy.

On a periodic basis the Board disseminates to its licensees a newsletter which includes a brief description of all of the orders entered by the Board.

From time to time, the Press Office of the Division of Consumer Affairs may issue releases including the summaries of the content of public orders.

Nothing herein is intended in any way to limit the Board, the Division or the Attorney General from disclosing any public document.